

LAGRANGE COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 15, 2020

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON **TUESDAY, SEPTEMBER 15, 2020 AT 7:00P.M.** IN THE LAGRANGE COUNTY COMMISSIONERS ROOM AT THE COUNTY OFFICE BUILDING

CALL TO ORDER: Tyler Young called the meeting to order at 7:00 p.m.

ROLL CALL: Tyler Young, Lynn Bowen, Jim Bugg, Nick Wilson, & Richard Sherman. In attendance: Robbie Miller, Brittney Johnston, and Dustin Glick.

ADOPT AGENDA: Lynn Bowen made a motion to postpone petition (20-LUV-29) until the November BZA meeting, Nick Wilson seconded the motion. A vote was taken, motion carried. Lynn Bowen made a motion to accept the adopted agenda, Jim Bugg seconded the motion. A vote was taken, motion carried.

MINUTES OF PREVIOUS MEETING: Lynn Bowen made a motion to approve the previous minutes, Nick Wilson seconded the motion. A vote was taken, motion carried.

COMMUNICATIONS: None.

OLD BUSINESS

LAND USE VARIANCE

(Public Hearing)

SCHROCK, MERVIN & JOANN ~ TAYLOR SAWMILL ~ By: Rob Yoder (20-LUV-22):

Clearspring Twp., Sect. 04, T36N R09E, zoned A-1. Located at 3095 W 300 S, LaGrange. Application is to operate a wholesale rough-cut board manufacturing facility in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner. Mr. Yoder explained the reason for the variance, and the updates added to the site plan. Also, DNR would be going to the property to identify the boundary line for the floodplain and if necessary the site plan would be shifted to meet the required setback. Mr. Yoder stated it is a wholesale business, no retail.

Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan at length.

Lynn Bowen made a motion for this use only, this owner only, no expansion of the building & dimensions on the site plan. Rich Sherman seconded the motion. A vote was taken, motion carried.

A roll call vote was taken:

Land Use Variance

1. The approval will not be injurious to the public health, safety and general welfare of the community.

The proposal is to operate a rough-cut sawmill business in an A-1 zone. The proposed site is located in a remote area with minimal neighbors. The property provides for adequate driveway and turnaround for deliveries.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The proposed business location is located well off the roadway and away from any adjacent properties and/or landowners. The operation should have a minimal effect on the neighboring landowners' use and enjoyment of their properties. The type of business will not have significant traffic and will not maintain retail sales. No remonstrators appeared.
3. The need for the variance arises from some condition peculiar to the property involved
The unique characteristics and the geographical location of the property as it currently sits in an A-1 zone would prevent the Petitioners from operating its rough-cut sawmill business at said location and place a limitation on the property's usefulness.
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
Petitioners would be prohibited from operating its rough-cut sawmill business at this location without the requested variance, requiring Petitioners to find another suitable location away from their home.
5. The approval does not interfere substantially with the Comprehensive Plan
The comprehensive plan encourages rural family-based businesses and the proposed plan is not dissimilar from those in existence in the surrounding area. The comprehensive plan also encourages a diverse economy and promotes growth in the county economy with the small business owners.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following conditions: This owner only; this use only; no further expansion of the buildings as provided on the site plan.

(Public Hearing)

MILLER, GLEN/TRI-COUNTY LAND TRUSTEE CORP. ~ NATIONAL RV

REFRIGERATION AC & REPAIR ~ By: Rob Yoder (20-LUV-24): Van Buren Twp., Sect. 25, T38N R08E, zoned A-1. Located at 6755 W SR 120, Shipshewana. Application is to operate a proposed commercial business repairing and installing AC units on RV's in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner and explained the reason for the variance. Tyler Young asked if there was anyone in favor of the petition.

Leon Hershberger, 5335 N SR 5, Shipshewana, expressed his support of the petition as the business' current owner. Mr. Hershberger explained current business details, and that he believed the location on State Road 120 would be a boost for business.

Tyler Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Tyler Young & Lynn Bowen both expressed concern with the location and the traffic in that area.

Lynn Bowen made a motion for this use, this owner only. Nick Wilson seconded the motion. A vote was taken, motion carried.

A roll call vote was taken:

Land Use Variance

1. The approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is to operate an AC repair installation business in an A-1 zone. The property is located well off the neighboring roadway and allows for safe flow of traffic and sufficient turn around for any deliveries.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The subject property is located in an A-1 zone, adjacent to a busy state road with minimal neighboring homes/residences nearby. The introduction of this business to the location should have a minimal effect on any neighboring landowners' use and enjoyment of their properties. No remonstrators appeared.
3. The need for the variance arises from some condition peculiar to the property involved.
The location of the subject property as it currently sits within an A-1 zone would prevent Petitioners from operating their AC repair and installation business.
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
Petitioners would be prohibited from operating the proposed AC repair and installation business at this location without the requested variance. The type of small home-based business proposed by Petitioner is not dissimilar from other businesses operated in the surrounding area.
5. The approval does not interfere substantially with the Comprehensive Plan
The comprehensive plan encourages a diverse economy. The proposed usage is not dissimilar from other rural businesses in the surrounding area.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following conditions: this use only; this owner only.

(Public Hearing)

MILLER, BRIAN ~ MILLER STEEL FABRICATORS ~ By: Rob Yoder (20-LUV-25): Van Buren Twp., Sect. 22, T38N R08E, zoned A-1. Located at 8465 W SR 120, Shipshewana. Application is for a proposed warehousing manufacturing and assembly of refrigeration components to include cutting, forming, stamping of tubing and sheet metal parts and welding.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner. Mr. Yoder explained he had met with Jason Boggs, LaGrange County Building Commissioner, on site to view the remodeling of building. Mr. Yoder informed the board there will be semi deliveries 5-6 times a year, one delivery a week by tractor trailer, by the owner.

Robbie Miller asked for clarification on the deliveries to the business due to Jason Bogg's letter which referenced there would be no deliveries.

The board discussed the site plan and differences between the submitted paperwork and Jason Bogg's letter.

Lynn Bowen made a motion for this use only, this owner only, no outside storage, and confirmation from the building department. Rich Sherman seconded the motion. A vote was taken, motion carried.

Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

A roll call vote was taken:

Land Use Variance

1. The approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is to operate a refrigeration component manufacturing business in an A-1 zone. The proposed business location is located well off the adjacent roadway and will have minimal traffic and deliveries at the site location. The proposal does not pose an unreasonable risk of harm to the public.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The proposed business location is well off of the road and not located near any neighboring landowners, avoiding any possible adverse effects on adjacent properties. There will not be heavy traffic or deliveries at the location. The proposal is light manufacturing and should cause minimal noise and obtrusion to neighboring properties. No remonstrators appeared.
3. The need for the variance arises from some condition peculiar to the property involved
The unique characteristics and the geographical location of the property as it currently sits in an A-1 zone would prevent the Petitioner from operating a manufacturing business at said location and place a limitation on the property's usefulness.
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
Petitioner would be prohibited from operating the proposed manufacturing business at this location without the requested variance. The type of small home-based business proposed is not dissimilar from other businesses operated in the surrounding area.
5. The approval does not interfere substantially with the Comprehensive Plan
The comprehensive plan encourages rural family-based businesses and the proposed plan is not dissimilar from those in existence in the county.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following conditions: this use only; this owner only; no outside storage permitted at the site.

NEW BUSINESS

DEVELOPMENTAL VARIANCE

(Public Hearing)

MYERS, GARY & JACKIE ~ TRIANGLE FARMS, INC. ~ By: Jackie Myers (20-V-48):

Clearspring Twp., Sect. 25, T36N R09E, zoned L-1. Located at 0240 W 625 S, Wolcottville.

Application is for a 29' lake setback for a proposed residence.

Robbie Miller introduced the petition and reviewed the site plan.

Jackie Myers, 6090 N 100 E, Howe, was present as the petitioner. Mrs. Myers explained the reason for the variance and plans for a new steel sea wall.

Tyler Young asked if there was anyone in favor of the petition.

Gary Myers, 6090 N 100 E, Howe, explained the purpose of the location and angle of the driveway for safety to be able to see more of the road from the drive.

Tyler Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

Developmental Standard Variance

1. The Approval will not be injurious to the public health, safety and general welfare of the community.
The proposal will not be injurious to the public health and safety, as it does not bring any unnecessary risk of harm to the public or surrounding properties. The proposed new residence does not interfere with or obstruct vision of traffic on the neighboring roadway.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The proposed new residence will not interfere or intrude on the use and enjoyment of adjacent property owners. The proposed new construction will be aesthetically pleasing and may increase neighboring property values. The lakeside setback requested is in line with neighboring homes and does not seek to interfere with the lake view of neighboring property owners. No remonstrators appeared.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
The size, shape, and layout of the lot in question makes it impractical/impossible to construct a new home within all of the required setbacks. The proposal as presented only requires one setback and meets both side yard and road side setback requirements
4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
The proposed construction is minimally intrusive to neighboring properties and seeks to better utilize the subject property without encroaching on adjacent properties.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

(Public Hearing)

SCHROCK, HARLEY & ELLA ~ By: Harley Schrock (20-V-49): Clearspring Twp., Sect. 09, T36N R09E, zoned A-1. Located at 3770 W 350 S, LaGrange. Application is for a 2.5' Eastside setback to remodel and add a 260 sq. ft. addition to an existing farm building.

Robbie Miller introduced the petition and reviewed the site plan.

Harley Schrock, 3770 W 350 S, Topeka, was present as the petitioner. Mr. Schrock explained the need to add to the building for larger equipment storage.

Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

Developmental Standard Variance

1. The Approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is to construct a small addition on to an existing barn on Petitioner's property. The proposal seeks to extend the end of the barn in line with the current side yard setback to add additional space for storage. The subject addition is located well off the roadway and the proposal will not cause any obstruction on the adjacent roadway.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The barn has existed as a legal nonconforming structure at the subject location for many years without issue or interference with the adjacent landowner. The adjacent lot is primarily pasture and there are no structures located nearby. The adjacent properties are primarily agricultural and would not be affected in a substantially adverse manner with the construction of the proposed addition. No remonstrators appeared.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
Strict application would prevent Petitioners from constructing the proposed addition without removing and relocating the existing barn that has stood for many years. Given the size and layout of the Petitioner's property as it currently exists, it would be impractical/impossible to construct the new structure in another location.
4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
The proposal is minimally intrusive and seeks to retain the existing barn and character of the property while adding a minor expansion to provide additional storage. The encroachment caused on the neighboring property is minimal and has existed for many years without issue.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

(Public Hearing)

GRIM, BRADLEY & JESSICA ~ By: Bradley Grim (20-V-50): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located at 820 E 650 S, Wolcottville. Application is for a 5' Westside setback, 21' lakeside setback, 30.7' roadside setback and 48.5% lot coverage for a new residence.

Robbie Miller introduced the petition and reviewed the site plan.

Bradley Grim, 4221 E 600 S, Churubusco, was present as the petitioner and explained the residence will become the Grimm's permanent residence, and their intention to build a second story above the garage.

Tyler Young asked if there was anyone in favor of the petition.

Jonni Griffith, 830 E 650 S, Wolcottville, stated she was in favor of the petition as the next door neighbor.

Mark Voss, 6615 S 082 E, expressed his support and that he was pleased with the Grims effect on the area as residents.

Tyler Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan and options for a drainage plan.

Lynn Bowen made a motion for a stormwater drainage plan to be submitted to the Plan Commission, Tyler Young seconded the motion. A vote was taken, motion carried.

A roll call vote was taken:

Developmental Standard Variance

1. The Approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is for the construction of a new residence and an auxiliary structure with multiple setback variance requests. The variances requested do not unreasonably interfere with the public or obstruct traffic on the roadside of the property.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The proposed construction of a new residence will be aesthetically pleasing and may increase neighboring property values. The proposed side yard setback is common on surrounding properties in the area and the lakeside setback is in line with adjacent properties, thereby not interfering with lake views. No remonstrators appeared.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
That due to the size and shape of the subject property, Petitioners would be unable to construct the proposed new residence on the parcel as it currently exists without the requested variance.
4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
The proposed new residence is requesting similar setbacks that exist on other properties in the surrounding area. The proposal is reasonably sized, given the space available on the subject lot. The proposal does not interfere with the use and enjoyment of neighboring properties.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following condition: Petitioner must submit a stormwater drainage plan to be approved by the planning department.

(Public Hearing)

MOELLER, RANDALL ~ By: Randall Moeller (20-V-51): Johnson Twp., Sect. 25, T36N R10E, zoned L-1. Located at 5136 E 620 S, Wolcottville. Application is for a 30' roadside setback for a proposed attached garage.

Robbie Miller introduced the petition and reviewed the site plan.

Randall Moeller, 5136 E 620 S, was present as the petitioner. Mr. Moeller explained the reason for the variance to the board.

Tyler Young asked if anyone was in favor of the petition.

David Schnellbach, 5115 E 620 S, Wolcottville, expressed his support as a neighboring property.

Tyler Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

Developmental Standard Variance

1. The Approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is for the construction of an attached garage structure on the roadside of Petitioner's home. The proposed garage is located far enough off of the adjacent roadway that it will not obstruct view on the traveled road nor will it pose any risk to the public.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The proposed new construction would be aesthetically pleasing to neighboring landowners. The proposed setback variance will not intrude on neighboring landowners' properties, as it meets the required side yard setbacks. The proposed structure will be located further from the right of way than some of the neighboring auxiliary structures. No remonstrators appeared.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
Given the size and layout of the subject lot it would be impossible/impractical for Petitioner to construct an attached garage on the subject property without the variance requested.
4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
The proposed construction is minimally intrusive and does not seek to encroach upon the roadway any more than neighboring properties. The proposed location of the attached garage is reasonably sized considering the lot size in question.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met is burden of proof and hereby approves the variance as requested.

LAND USE VARIANCE

(Public Hearing)

MULLET, ELROY & MARY LOU ~ MULLET'S REPAIR ~ By: Rob Yoder (20-LUV-29): Van Buren Twp., Sec. 35, T38N, R08E, zoned A-1. Located at N SR 5, Shipshewana. (44-04-35-100-004.000-017) Application is for the retail sales for equipment assembled off site (600 sq. ft. inside & 16,000 sq. ft. outside), light manufacturing / assembly (shear machine blades, millings knives & chain saws) and warehouse storage of raw materials to support manufacturing building.

The petition was postponed until the November 17, 2020 meeting.

(Public Hearing)

TCHD PROPERTIES, LLC / MATT HOCHSTETLER ~ LOH TAX GROUP ~ By: Rob Yoder (20-LUV-32): Eden Twp., Sect. 35, T36N R08E, zoned A-1. Located at 7530 S 700 W, Topeka.

Application is to operate an accounting and tax preparation business in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Matt Hochstetler, 8160 W 1050 N, Nappanee, was present as the petitioner.

Rob Yoder, 7740 W SR 120, Shipshewana, was present as well on behalf of the petitioner. Mr. Yoder explained to the board the business has been there since 2015, employs 2 full time employees, and is not a home based business.

Tyler Young asked if anyone was in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

Land Use Variance

1. The approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is to operate an accounting and tax preparation business in A-1 zone on a property where Petitioner does not reside. The proposal does not bring a significant uptick in traffic as the business has been in operation at this location since 2015. The proposed business poses no risk to the safety or welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
The business has been in existence at this location for several years without issue. The proposed location is on a main road, however there are minimal neighboring properties that would be affected in any way by the business operation. No remonstrators appeared.
3. The need for the variance arises from some condition peculiar to the property involved
The unique characteristics and the geographical location of the property as it currently sits in an A-1 zone would prevent the Petitioner from operating the business at said location while not residing at the subject property.
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
Petitioner would be prohibited from operating the proposed accounting and tax preparation business at this location without the requested variance, requiring Petitioner to move the business to another location.
5. The approval does not interfere substantially with the Comprehensive Plan
The comprehensive plan encourages rural family-based businesses and a diverse economy and the proposed plan is not dissimilar from those in existence in the surrounding area.

For all of the foregoing reasons, on this 15th day of September, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

CONDITIONAL USE

(Public Hearing)

HEFLIN, JUSTIN ~ By: Joshua C. Neal (20-CU-01): Johnson Twp., Sect. 32, T36N R10E, zoned L-1. Located at 1445 E 700 S, Wolcottville. Application is to operate a short term rental unit in an L-1 zoning.

Robbie Miller introduced the petition and reviewed the site plan. Mrs. Miller explained the conditional use to be for an Airbnb.

Justin Heflin, 818 Canyon Cliffs, Huntertown, informed the board he purchased the property in 2019, unaware of the need for a conditional use variance to run the property as an Airbnb. Once he discovered the needed variance he began the process as soon as possible. Mr. Heflin explained the workings of running his Airbnb, including how his county and state taxes are collected, the positive reviews from his guests, and the overall use of the property by himself and guests.

Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Robbie Miller questioned the minimum night stay for the guests.

Justin Heflin answered with a 2-night minimum and a 30-night maximum stay.

A roll call vote was taken and the petition was approved.

OTHER BUSINESS: Dustin Glick reviewed the Open Door complaint filed against the Board of Zoning Appeals by Lisa Fletter pertaining to the Lavern Whetstone **(20-LUV-14)** petition heard at the July 21, 2020 BZA meeting. Mr. Glick explained the complaint was received on August 12th to the County clerk's office, but was brought to Kurt Bachman's attention on September 10, 2020, causing the response to be sent 7 days late. The public access complaint counselor informed Dustin that late responses happen and a formal opinion should be sent back by September 22, 2020.

ADJOURNMENT: Lynn Bowen made a motion to adjourn the meeting, Nick Wilson seconded the motion. The meeting adjourned at 9:20 p.m.

LAGRANGE COUNTY, INDIANA

ANTI-DISCRIMINATION NOTICE STATEMENT

The County of LaGrange does not illegally discriminate because of race, color, national origin, sex, religion, disability, or age with regards to admission, participation, or treatment in its facilities, programs, activities, or services, as required by Title III and Title VI of the American Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and their related statutes, regulations, and directives. The County has established an Anti-Discrimination Compliance Division to ensure compliance with these laws. If you would like more information concerning the provisions of these laws and about the rights provided thereby, or if you have a suggestion on how the County can better meet the needs of persons protected thereby, please contact the Division at 300 E. Factory St., LaGrange, IN 46761 or by telephone at (260)499-6352.

LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: _____
Tyler Young, President

BY: _____
Jim Bugg, Member

BY: _____
Lynn Bowen, Member

BY: _____
Nick Wilson, Member

BY: _____
Rich Sherman, Alternate Member

BY: _____ABSENT_____
Freeman Miller, Alternate Member